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Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women
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Item 4 of the provisional agenda
Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women

List of issues and questions in relation to the sixth periodic report of Samoa

Constitutional, legislative, policy and institutional framework

1. In accordance with the State party's obligations under articles 1 and 2 of the Convention and in line with target 5.1 of the Sustainable Development Goals, to end all forms of discrimination against all women and girls everywhere, please provide further information on the measures taken to ensure that all of the provisions of the Convention are given effect in the domestic legal system, including information on: (a) the status of the review of legislative compliance of 2016 and updates on any further legal reforms to incorporate the Convention in national law and to revise legislation and customary laws that are inconsistent with the provisions of the Convention (CEDAW/C/WSM/6, para. 15);[1] and (b) measures taken to ensure that laws and policies justified on the basis of religion do not lead to violations of women's rights, as guaranteed under the Convention, in the light of the adoption by parliament of the Constitution Amendment Act (No. 2) on 6 June 2017, which defines the country as a Christian nation. Given the State party's dual system of State and village governance, please also clarify how the constitutional provisions of gender equality and prohibition of gender-based discrimination are effectively enforced at the village level in line with the Convention.

2. While noting that article 15 of the Constitution guarantees the principle of equality (para. 14), please clarify how discrimination against women, including direct and indirect discrimination, is defined and protected against under national legislation, in line with article 1 of the Convention. Please also provide examples of cases in which the provisions of the Convention have been invoked by domestic courts, including at the village level. Noting the establishment of the national human rights institution in June 2013 (para. 16), please clarify: (a) the capacity of that

[1] Unless otherwise indicated, paragraph numbers refer to the sixth periodic report of the State party.

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institution to monitor, promote and protect the human rights of women; and (b) the findings of the two annual reports on the state of human rights with regard to violations of the rights of women and girls, and the status of implementation of the recommendations contained therein. In the light of reports that civil society organizations working to promote and protect the rights of women and girls are poorly resourced despite their significant contribution to the advancement of women, please indicate the steps taken to provide adequate funding and resources to such organizations to ensure that their activities and initiatives are sustainable and effective in the long run.

Access to justice and remedies

3. Please provide information on the existing legal aid scheme and the extent to which women avail themselves of legal aid. Please provide information on the implementation of the Community Law Centre Act, which was adopted by parliament in July 2015 but has reportedly not been implemented owing to other priorities of the Cabinet. Given reports of difficulties experienced by women and girls with regard to accessing justice, particularly those in rural areas and in relation to gender-based violence, including domestic and sexual violence, please clarify what steps have been taken in this regard and the impact of the measures adopted. Given reports of high rates of women being imprisoned on charges of "theft as a servant", please indicate the measures taken by the State party to review the sentencing policy and to consider alternatives to detention.

National machinery for the advancement of women

4. While noting the information on measures taken to increase the budget and technical capacity of the Ministry of Women, Community and Social Development (paras. 24–29), please indicate how the human resources and capacity of its staff have increased during the reporting period. In the light of the extremely low number of female village representatives who are employed by the Ministry in comparison with the number of men (para. 40), please clarify what steps are being taken to increase the representation of female village representatives within the Ministry. Please also provide information on the impact of the $A 3.8 million received from the Government of Australia in 2015 to strengthen the national machinery and its programmes to increase women's economic empowerment and participation in public life and decision-making and to reduce gender-based violence (para. 25).

5. Please provide data on the concrete outcome and results of: (a) the Ministry of Women, Community and Social Development strategic plan for the period 2013–2017 (para. 32); (b) the national policy for gender equality for the period 2016–2020 (para. 33); (c) the work of village women representatives and of the Women's Advisory Committee within the Ministry (para. 35); and (d) the stocktaking of gender mainstreaming capacity in 2015 (para. 38).

Temporary special measures

6. Please provide updated information on the percentage of women who are represented in parliament following the adoption of the Constitutional Amendment Act of 2013, which established a 10 per cent quota for women in parliament (para. 39). Please also provide updated information on the status of adoption of quotas for women in decision-making positions in public bodies (para. 41) and indicate whether the State party envisages adopting other temporary special measures, in accordance with article 4 (1) of the Convention and the Committee's general recommendation No. 25 (2004) on that subject, to accelerate women's full and equal participation in all areas of the Convention in which they are disadvantaged or underrepresented.

Stereotypes and harmful practices

7. It is indicated in the report that the draft strategy for family and community safety 2017–2021 is anticipated to challenge deeply rooted sociocultural norms and attitudes and violent behaviour towards women and girls (para. 43). Please clarify whether this strategy has been adopted and, if so, provide information on its impact in changing patriarchal attitudes and negative stereotypes of women. Recalling the Committee's concerns expressed in its previous concluding observations regarding the persistence of harmful norms, practices, traditions, patriarchal attitudes and deep-rooted stereotypes regarding the roles, responsibilities and identities of women and men in all spheres of life, as well as the limited efforts made by the State party to tackle such discriminatory practices (CEDAW/C/WSM/CO/4-5, para. 20), please clarify whether the State party has adopted a comprehensive strategy to tackle these phenomena, including with regard to the perception of women's leadership and decision-making capacity. In the light of information about the negative role played by television programmes that reinforce stereotypes and harmful practices, please also indicate what steps are being taken to counter this situation.

Gender-based violence against women

8. Noting that a system to collect disaggregated data on gender-based violence against women was adopted in 2010 (para. 58), please provide updated statistical data on gender-based violence against women, including domestic violence, sexual violence and violence against lesbian, bisexual, transgender and intersex women, disaggregated by sex, age, nationality, geographic location and relationship between the victim and perpetrator. Please also provide data on the number of complaints about gender-based violence against women; prosecution, conviction and sentences imposed on perpetrators; and remedies provided to victims/survivors. Please indicate the measures envisaged to ensure that cases of gender-based violence against women, including domestic violence, are not systematically referred to alternative dispute resolution procedures, as stipulated in the Committee's general recommendation Nos. 35 (2017) on gender-based violence against women, updating general recommendation No. 19, and 33 (2015) on women's access to justice. Please also clarify what measures have been taken to ensure that individuals who intervene and mediate in cases of gender-based violence against women, including village *matai*, members of the village council and church leaders (paras. 48 and 49), are specifically trained to understand and adequately intervene in cases of gender-based violence against women, ensuring adequate protection of the rights of women and children and that interventions are conducted with no stereotyping, coercion or revictimization of women.

9. Noting the publication in July 2017 of the second *Samoa Family, Health and Safety Study*, which revealed the pervasiveness of gender-based violence in the State party, please provide information on how the results of this study have been reflected in the policies and strategies adopted by the State party to combat all forms of gender-based violence against women and indicate the funding made available to effectively implement such strategies. Please also provide information on: (a) the status of the national inquiry undertaken by the national human rights institution in December 2016 with a focus on "violence in the Samoan home" (para. 65); and (b) the status of implementation of public education and awareness programmes relating to domestic violence, anger management, abuse of alcohol and drugs, and rehabilitation programmes for inmates to change their violent conduct and refrain from reoffending, as recommended in the report by the Samoa Law Reform Commission (para. 68).

Trafficking and exploitation of prostitution

10. Please indicate when the State party intends to ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, as previously recommended by the Committee (CEDAW/C/WSM/CO/4-5, para. 25 (d)), as well as to enact legislation and draft a national policy on the prohibition of trafficking of persons. Please also clarify whether studies and surveys have been conducted on the prevalence of trafficking, as previously recommended by the Committee (para. 25 (b)), and provide relevant data regarding this phenomenon. Please also provide further information and data on: (a) the prevalence of exploitation of prostitution (para. 71), including girls involved in prostitution; (b) the measures taken or envisaged to address the root causes of prostitution and to prevent women and girls in vulnerable situations from entering into prostitution, including the provision of alternative income opportunities; and (c) the impact of measures adopted to increase the use of contraceptives and sexual and reproductive health services by women and girls in prostitution (para. 71).

Participation in political and public life

11. Please provide updated statistical data on the percentage of women who are represented in the judiciary, village *fono* (village councils), diplomatic services, and management and company boards. Since an individual must hold a *matai* title to stand for election to parliament, as stipulated in the Electoral Act of 1963, and noting that women continue to be banned from holding such a title in 21 out of 275 villages or sub-villages (para. 83), please indicate whether any specific measures have been taken to eliminate such a ban, as recommended by the Samoa Law Reform Commission (para. 41) and in line with the Committee's previous recommendation (CEDAW/C/WSM/CO/4-5, para. 27 (b)). Please also provide updated information on the measures adopted to: (a) combat the prohibition of women's participation in village *fono* meetings (para. 86); and (b) ensure that women's committees have the same scope of responsibilities and decision-making power as the village councils (paras. 41 and 85).

Education

12. It is indicated in the report that pregnant girls are expelled or prohibited from re-entering schools during pregnancy or after childbirth, or are taken out of schools by parents (para. 97). Please provide updated information on: (a) the dropout rate of girls owing to pregnancy during the reporting period, as well as the rate of girls returning to school after childbirth; (b) the impact of measures taken to combat this phenomenon (para. 98); and (c) the status of implementation of re-entry policies enabling girls who drop out to return to school, as recommended previously by the Committee (CEDAW/C/WSM/CO/4-5, para. 29 (a)). Please also provide further information on the implementation of the Committee's previous recommendations to: (a) address negative cultural attitudes and excessive domestic duties, which constitute barriers to the education of women and girls; and (b) eliminate traditional stereotypes and structural barriers that might deter girls from enrolling in science and mathematics education at the secondary and tertiary levels.

13. According to the information available to the Committee, girls continue to be subjected to sexual abuse and harassment by teachers in schools and such cases remain underreported owing to the fear of stigmatization. Please provide information on: (a) the impact of the national safe schools policy on reducing instances of sexual abuse and harassment (para. 98); and (b) the number of complaints of sexual abuse and harassment received and investigated since the establishment of reporting

mechanisms in schools (para. 98) and the outcomes of complaints lodged, including the number of perpetrators who have been prosecuted and punished and the remedies provided to victims. Please also clarify the status and rationale of the bill proposed by the Ministry of Education, Sports and Culture aimed at reintroducing corporal punishment in schools. Given reports of high rates of teenage pregnancy and sexually transmitted diseases among young people, please clarify whether any measures have been taken or are envisaged to introduce comprehensive sexuality education in schools.

Employment

14. Please provide updated information to extend the length of maternity leave in the private sector, so that it is on par with the public sector and independent of contractual status, as well as to introduce a parental leave policy (paras. 114 and 119). Please indicate whether the State party has considered alternative measures to help finance maternity leave in the private sector. Please provide information on: (a) the specific measures taken to improve the rate of employment of women and address occupational segregation; (b) the measures taken to ensure that the principle of equal pay for work of equal value is guaranteed in law and in practice, particularly in the light of information that the female representative of each women's committee is paid half the salary of the male village representative; (c) the impact of measures taken to ensure that women in the informal sector have access to adequate social security benefits, including the Samoa National Provident Fund; and (d) measures taken to improve the equal sharing of responsibilities in the home between men and women so as to increase the participation of women in the workforce. According to information available to the Committee, protection from sexual harassment in the private sector was not included in the Labour and Employment Relations Act, and the report indicates that only some forms of protection are available (para. 124). Please clarify the gaps in protection from sexual harassment in the private sector and provide information on the measures taken or envisaged to address such lacunae.

Health

15. Please provide updated information on: (a) the overall maternal mortality rate in the State party; (b) women's access to basic health-care services, including essential obstetric care and sexual and reproductive health services; (c) the prevalence of cervical cancer and breast cancer and the measures taken to prevent them; (d) suicide rates during the reporting period, disaggregated by sex, age and geographical location; and (e) the availability of mental health-care services, including counselling services in relation to gender-based violence. Given the concerns expressed by the Working Group on the issue of discrimination against women in law and in practice following its visit to the State party in August 2017 regarding the limited resources of health-care providers, the severe lack of doctors, pharmacies running short of supplies and the limited accessibility of district health centres, please indicate the measures adopted to address these issues and the impact of such measures on improving access to health-care services by women and girls.

16. It is indicated in the report that abortion is legal only in cases in which the pregnancy is no more than 20 weeks and will result in serious danger to the life or to the physical or mental health of the woman or girl, and that, owing to strong religious and cultural beliefs, there is opposition to legalizing abortion on other grounds, including in cases of rape and incest (appendix 2). Please provide information on: (a) the incidence of unsafe abortion and its impact on women's health, including maternal mortality; (b) measures taken to address obstacles, including religious or cultural beliefs, to legalizing abortion, at least in cases of rape, incest and severe impairment of the foetus, and to decriminalizing abortion in all other cases; and

(c) access to high-quality services for the management of complications arising from unsafe abortions, as recommended previously by the Committee (CEDAW/C/WSM /CO/4-5, para. 33 (b)).

Economic and social life

17. The report acknowledges the difficulties experienced by women in accessing funds at commercial banks owing to strict policies and requirements, such as collateral, and the lack of banking facilities in rural areas (para. 138). Please provide updated information on measures taken to enable access by all women, including "nofotane" women (women living in the village of their spouses), to bank loans, mortgages and other forms of financial credit, and on the impact of such measures.

Rural women

18. It is indicated in the report that the establishment of village women representatives under the Ministry of Women Affairs Act 1990 ensures that the needs of rural women are heard and addressed by central and local governance bodies, and that rural women are well represented at national forums and consultations led by the Government or private sector through the network of village women representatives who are selected from rural and urban village communities (para. 141). Please clarify the extent to which "nofotane" women are able to participate in decision-making forums in the villages, including as village women representatives, and the measures taken to address their exclusion. Please also indicate the measures adopted to address the Committee's previous concern with regard to the prevalence of discriminatory customs and traditional practices that prevent rural women from inheriting or acquiring ownership of land and other property (CEDAW/C/WSM/CO/4-5, para. 34).

Disadvantaged groups of women

19. Please provide information on the situation of women with disabilities, female-headed households, older women and lesbian, bisexual, transgender and intersex women. Please indicate whether any specific measures have been adopted to address intersectional forms of discrimination faced by women belonging to such groups and, if so, the impact of the measures taken. Please also provide further information on: (a) the status and impact of the "Supporting Samoa's children" initiative launched in December 2016 to assist low-income families and women in situations of poverty so that they do not rely on children, especially girls, to provide a source of income for them through sexual exploitation (para. 20); and (b) the status of the legislative compliance review with regard to the protection of women and girls with disabilities from forced sterilization (para. 21).

Marriage and family relations

20. Please provide updated information on the status of implementation of the recommendations made by the Samoa Law Reform Commission to bring the State party's legislation into conformity with article 16 of the Convention, including with regard to the introduction of gender-neutral language in the legislation regarding spousal maintenance and alimony upon the dissolution of marriage (paras. 154 and 156) and the harmonization of the minimum age of marriage for both women and men at 18 years of age (para. 157). Please also provide further information on the measures taken to address the abandonment of children born out of wedlock owing to negative attitudes and stigmatization by the family and the community and the pressure exerted on women. Please also provide information on the legal provisions on child maintenance and on their enforcement.

Disaster risk reduction and climate change

21. It is indicated in the report that women have become increasingly engaged in climate change resilience programmes through the development of village response plans and participation in training sessions on the toolkit for effective response by response agencies (para. 142). Please provide updated information on the percentage of villages in the State party that have adopted action plans on climate change and disaster risk management, with the active participation of women, and clarify how a gender perspective has been incorporated in such plans. Please also clarify whether there is a nationwide policy on climate change and disaster risk management and, if so, how a gender perspective has been incorporated, taking into account the Committee's general recommendation No. 37 (2018) on the gender-related dimensions of disaster risk reduction in the context of climate change.

Data collection

22. The report refers to several initiatives to implement the Committee's previous recommendation (CEDAW/C/WSM/CO/4-5, para. 41) to enhance the collection, analysis and dissemination of comprehensive data disaggregated by sex, age, race, ethnicity, geographical location and socioeconomic background, and of measurable indicators (paras. 38, 158, 159 and 160). Please provide further information on the use of such data as the basis for monitoring the implementation of current and future policy and legislative measures for the advancement of women.

Optional Protocol and amendment to article 20 (1)

23. Please indicate any progress made with regard to the ratification of the Optional Protocol to the Convention and the acceptance of the amendment to article 20 (1) of the Convention (paras. 161 and 162).